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EXAMINER

PICKETT, JOHN G

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UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte JEAN-LOUIS GUERET

Appeal 2008-4554¹
Application 10/766,916
Technology Center 3700

Decided: February 3, 2009

Before DONALD E. ADAMS, LORA M. GREEN, and
JEFFREY N. FREDMAN, *Administrative Patent Judges*.

FREDMAN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 involving a claim to a hinged box. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

¹ Oral Hearing held January 14, 2009.

Statement of the Case

The Claims

Claims 1-39 are on appeal². We will focus on claims 1, 38, and 39, which are representative and read as follows:

1. A box comprising:
 - at least one base portion;
 - a lid; and
 - a hinge connecting the lid to the base portion;wherein the hinge comprises:
 - a first element fixed to the base portion; and
 - a second element fixed to the lid,one of said first and second elements comprising loops and the other of said first and second elements comprising hooks arranged to co-operate with said loops, wherein the hinge is configured to hold the lid in an upstanding position relative to the at least one base portion

38. A system comprising:
 - a first base portion including a housing receiving at least one cosmetic substance, the first base portion having front, rear and lateral faces;
 - a second base portion including a housing receiving at least one cosmetic substance, the second base portion having front, rear and lateral faces;
 - a lid; and
 - a hinge connecting the lid to the first base portion; wherein the hinge comprises:
 - a first element fixed to the first base portion; and
 - a second element fixed to the lid;

² The Examiner objected to claims 9 and 13 and allowed claims 17 and 18 (App. Br. 3).

one of said first and second elements comprising loops and the other of said first and second elements comprising hooks arranged to co-operate with said loops;

wherein the first base portion comprises on at least one lateral face a third element and wherein the second base portion comprises on at least one corresponding lateral face a fourth element, one of said third and fourth elements comprising loops and the other of said third and fourth elements comprising hooks arranged to co-operate with said loops.

39. A system comprising:

a first base portion including a housing receiving at least one cosmetic substance, the first base portion having front, rear, bottom and lateral faces;

a second base portion including a housing receiving at least one cosmetic substance, the second base portion having front, rear, top and lateral faces;

a lid; and

a hinge connecting the lid to the first base portion; wherein the hinge comprises:

a first element fixed to the first base portion; and

a second element fixed to the lid,

one of said first and second elements comprising loops and the other of said first and second elements comprising hooks arranged to co-operate with said loops;

wherein the bottom face of the first base portion comprises a third element and the top face of the second base portion comprises a fourth element, one of said third and fourth elements comprising loops and the other of said third and fourth elements comprising hooks arranged to co-operate with said loops.

The prior art

The Examiner relies on the following prior art references to show unpatentability:

Flax	US 3,441,033	Apr. 29, 1969
Beasley	US 5,115,916	May 26, 1992
Hunt	US 5,878,881	Mar. 9, 1999
Vicari	US 6,216,899 B1	Apr. 17, 2001
Rago	US 6,626,432 B2	Sep. 30, 2003
Manougian	US 7,047,983 B2	May 23, 2006
Seidler	US 2002/0153376 A1	Oct. 24, 2002

The issues

- A. The Examiner rejected claims 1-3, 11, 12, 14, 15, 17-21, 24, 26-31, and 34-36 under 35 U.S.C. § 103(a) as obvious over Manougian and Rago (Ans. 3-6).
- B. The Examiner rejected claims 4-6, 25, and 37 under 35 U.S.C. § 103(a) as obvious over Manougian, Rago, Flax, and Hunt (Ans. 6).
- C. The Examiner rejected claims 22 and 23 under 35 U.S.C. § 103(a) as obvious over Manougian, Rago, and Beasley (Ans. 6-7).
- D. The Examiner rejected claims 1, 2, 7-10, 13, 17, 18, 21, 26-28, 30-36, 38, and 39 under 35 U.S.C. § 103(a) as obvious over Seidler and Rago (Ans. 7-9).
- E. The Examiner rejected claim 16 under 35 U.S.C. § 103(a) as obvious over Seidler, Rago, and Vicari (Ans. 9).

A. 35 U.S.C. § 103(a) over Manougian and Rago

The Examiner finds that “Manougian discloses a box **210** (see Figure 7) comprising a base portion **218**, a lid **216**, and a hinge **220**” (Ans. 3). The

Examiner finds that “Rago discloses a hinge **22** . . . with a first element **62** comprising loop materials and a second element **72** comprising hook materials” (Ans. 4). The Examiner concludes that “because these two hinge means were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the hook- and-loop of Rago for the pinned hinge of Manougian” (Ans. 4).

Appellant contends that

it is not reasonable to conclude that one of ordinary skill in the art would have been motivated to make the asserted substitution with any reasonable expectation of success. The fact that the alleged hook and loop hinge in Rago may be effective for securing a game board, does not reasonably suggest that it is an "art-recognized" equivalent for the purposes of wired cosmetic case hinges, much less that it could be effectively used for such a purpose.

(App. Br. 9). Appellant also contends that “it is unreasonable to assert that Rago constitutes analogous art with respect to the subject matter of the pending claims” (App. Br. 9).

In view of these conflicting positions, we frame the obviousness issue before us as follows:

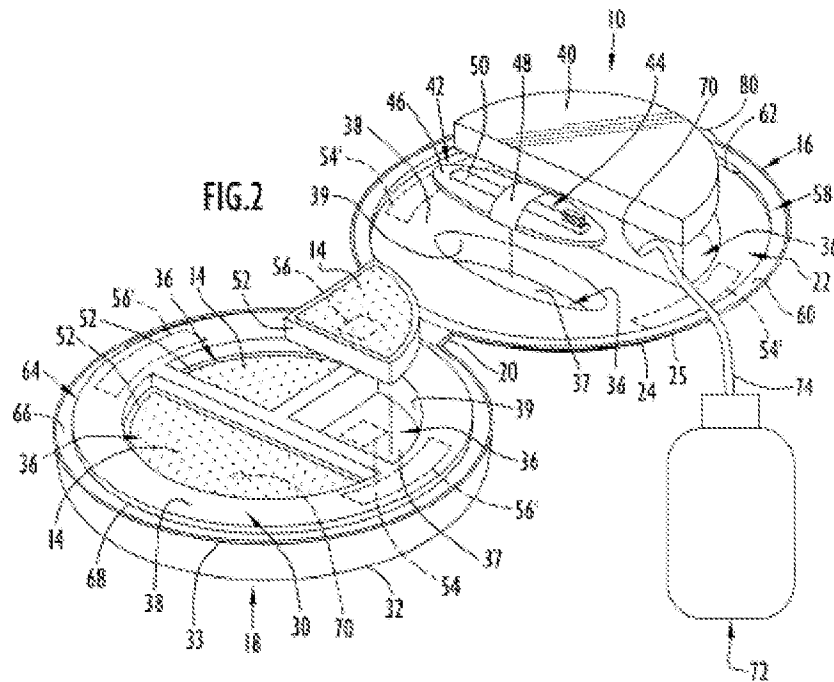
Did the Examiner err in finding that it would have been obvious to substitute the hook and loop hinge of Rago for the cosmetic case hinge of Manougian?

Findings of Fact (FF)

1. Manougian teaches a “hinged cosmetic container or compact including a housing or shell . . . Housing **12** includes a first housing member or lid **16**, a second housing member or base **18** and a hinge **20** pivotally

connecting lid **16** to base **18** for movement between a closed position . . . and an open position” (Manougian, col. 7, ll. 28-35).

2. Figure 2 of Manougian is reproduced below:



“FIG. 2 is a partially exploded perspective view of the protected cosmetic container in an open position” (Manougian, col. 6, ll. 40-41).

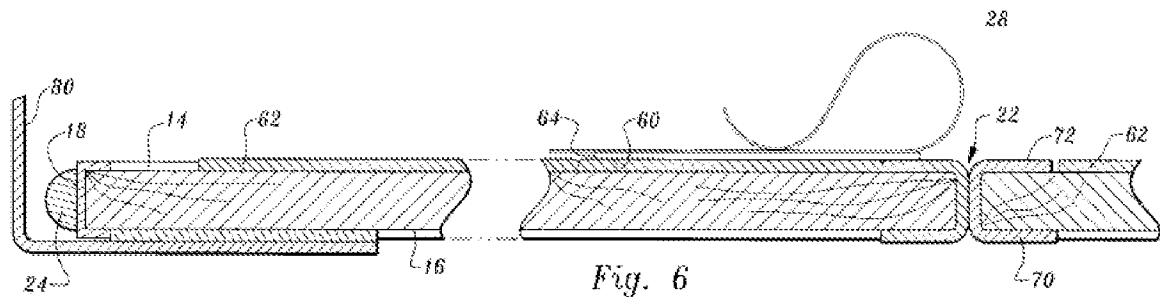
3. Manougian teaches that “[h]inge **20** can be designed in various ways and may be formed integrally, unitarily with the lid **16** and base **18** or as one or more separate mechanical components” (Manougian 11:54-56).

4. Manougian teaches that “the hinge allows the lid **16** to be oriented at 180 degrees to the base **18** in the open position. Accordingly, the protected cosmetic container **10** may assume a flat configuration in the open position, allowing the open protected cosmetic container to be supported on a flat support surface” (Manougian, col. 11, ll. 64-12:2).

5. Manougian teaches that “[c]ooperatively engageable and releasable Velcro securing devices **254** and **256** are provided on base **218** and trays **252**, respectively, to removably secure the trays within the wells **236**” (Manougian, col. 23, ll. 7-10).

6. Rago teaches a “game board **10** [including] . . . a generally rigid, form-retaining base member **12** . . . [which has] a center symmetrically disposed fold line **22** along which the base may be folded in half” (Rago, col. 2, ll. 20-31).

7. Figure 6 of Rago is reproduced below:



“FIG. 6 is a cross section view” (Rago, col. 2, l. 15).

8. Rago teaches that “[a]t the fold line **22** where the two sections of the game board meet, the looped Velcro fastener sheet **62** on one section overlies its edges at **68** and continues down and around the lower surface **16** of the board at **70**. The Velcro fastener sheet **62** on the adjacent section terminates short of the fold lane” (Rago, col. 3, ll. 44-47).

9. Rago teaches that a “hooked or complementary Velcro sheet **72** covers the edge of each adjacent section and a short portion of the upper and lower surfaces of each section” (Rago, col. 3, ll. 49-51).

10. Rago teaches that “the two sections are not only attached to each other by the interaction of the loop and hook elements on the Velcro

sheets **68** and **72**, but such connection also permits the two sections to be pivotally movable between an open and folded condition” (Rago, col. 3, ll. 52-55).

11. The Examiner finds that “Manougian, as modified with the hinge of Rago, is fully capable of holding the lid in an upstanding position” (Ans. 4).

Principles of Law

The question of obviousness is resolved on the basis of underlying factual determinations including: (1) the scope and content of the prior art; (2) the level of ordinary skill in the art; (3) the differences between the claimed invention and the prior art; and (4) secondary considerations of nonobviousness, if any. *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966). The Supreme Court has recently emphasized that “the [obviousness] analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR Int'l v. Teleflex Inc.*, 550 U.S. 398, ___, 127 S. Ct. 1727, 1741 (2007).

“The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *Id.* at 1739. “If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability.” *Id.* at 1740. Moreover, an “[e]xpress suggestion to substitute one equivalent for another need not be present to render such substitution obvious.” *In re Fout*, 675 F.2d 297, 301 (CCPA 1982). As noted by the Court in *KSR*, “[a] person of ordinary skill is

also a person of ordinary creativity, not an automaton.” 550 U.S. 398, ___, 127 S.Ct. at 1742.

Claim terms are interpreted using the broadest reasonable interpretation in light of the Specification. *See, e.g., In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000) (“[D]uring examination proceedings, claims are given their broadest reasonable interpretation consistent with the specification.”). *Also see In re Morris*, 127 F.3d 1048, 1054-56 (Fed. Cir. 1997). (“Absent an express definition in their specification, the fact that appellants can point to definitions or usages that conform to their interpretation does not make the PTO's definition unreasonable when the PTO can point to other sources that support its interpretation.”)

The Court found that

an inventor considering a hinge and latch mechanism for portable computers would naturally look to references employing other “ housings, hinges, latches, springs, etc.” which in that case came from areas such as “a desktop telephone directory, a piano lid, a kitchen cabinet, a washing machine cabinet, a wooden furniture cabinet, or a two-part housing for storing audio cassettes.”

In re ICON Health and Fitness, Inc., 496 F.3d 1374, 1380 (Fed. Cir. 2007) (citing *In re Paulsen*, 30 F.3d 1475, 1481 (Fed.Cir. 1994).

Analysis

Manougian teaches a box comprising a base portion, a lid and a hinge connecting the lid to the base portion (FF 1-2). Manougian teaches that the hinge may be formed in a variety of ways (FF 3-4) and teaches the use of hook and loop elements to connect two elements (FF 5). Manougian does not teach a hinge composed of hook and loop elements (*see* Ans. 3).

Rago teaches a hinge composed of hook and loop elements (FF 6-9). Rago teaches that “the interaction of the loop and hook elements on the Velcro sheets **68** and **72** . . . permits the two sections to be pivotally movable between an open and folded condition” (Rago, col. 3, ll. 52-55; FF 10).

Applying the *KSR* standard of obviousness to the Examiner’s findings and the findings of fact, the substitution of the Manougian hinge with the Rago hook and loop hinge represents a combination of known elements which yield the predictable effect where in Manougian, “hinge **20** preferably provides a substantial range of pivotal movement for lid **16**” (Manougian, col. 11, ll. 62-63). The combination of the hinge of Rago with the box of Manougian is merely a “predictable use of prior art elements according to their established functions.” *KSR*, 550 U.S. 398, ___, 127 S. Ct. at 1740.

We are not persuaded by Appellant’s argument that the “fact that the alleged hook and loop hinge in Rago may be effective for securing a game board, does not reasonably suggest that it is an ‘art-recognized’ equivalent for the purposes of wired cosmetic case hinges, much less that it could be effectively used for such a purpose” (App. Br. 9). While Appellant focuses on “wired cosmetic case hinges”, Appellant’s claim is drawn to “a box” (Claim 1) and not to a cosmetic case hinge as argued in the Appeal Brief (App. Br. 9). *See In re Self*, 671 F.2d 1344, 1348 (CCPA 1982) (“Many of appellant’s arguments fail from the outset because, . . . they are not based on limitations appearing in the claims”).

Additionally, as noted by the Court in *KSR*, “[a] person of ordinary skill is also a person of ordinary creativity, not an automaton.” *KSR*, 550 U.S. 398, ___, 127 S.Ct. at 1742. We agree with the Examiner that a “hinge

is one of the most basic of mechanical elements and the simple substitution of one known hinge arrangement for another known hinge arrangement is well within the level of ordinary skill in the art” (Ans. 10).

We are not persuaded by Appellant’s argument that “it is unreasonable to assert that Rago constitutes analogous art with respect to the subject matter of the pending claims” (App. Br. 9). In *Icon*, the Court found that

an inventor considering a hinge and latch mechanism for portable computers would naturally look to references employing other “ housings, hinges, latches, springs, etc.” which in that case came from areas such as “a desktop telephone directory, a piano lid, a kitchen cabinet, a washing machine cabinet, a wooden furniture cabinet, or a two-part housing for storing audio cassettes.”

In re ICON Health and Fitness, Inc., 496 F.3d 1374, 1380 (Fed. Cir. 2007) (citing *In re Paulsen*, 30 F.3d 1475, 1481 (Fed.Cir. 1994). The instant situation is similar to that of *Icon* and *Paulsen*, and in the instant case an ordinary practitioner considering hinges for the “box” of Manougian would reasonably consider references employing hinges such as Rago.

We also do not find persuasive Appellant’s argument that “there is no showing that a hook-and-loop configuration would be equivalent to a wired hinge in terms of strength and suitability for use in joining small elements such a cosmetic cases” (Reply Br. 4). As already mentioned, claim 1 is drawn to a “box” without any limitations regarding the size, weight, or dimensions (Claim 1). Claim 1 even lacks any “intended use” recitation regarding cosmetics (Claim 1). The ordinary practitioner, interested in forming a box based upon the teachings of Manougian and Rago with the

hook and loop hinge of Rago, would reasonably have selected base and lid components of appropriate size, weight and dimension.

Conclusion of Law

The Examiner did not err in finding that it would have been obvious to substitute the hook and loop hinge of Rago for the cosmetic case hinge of Manougian.

B. 35 U.S.C. § 103(a) over Manougian, Rago, Flax, and Hunt

The Examiner rejected claims 4-6, 25, and 37 under 35 U.S.C. § 103(a) as obvious over Manougian, Rago, Flax, and Hunt (Ans. 6).

Claims 4-6, 25, and 37 depend from claim 1. As we have affirmed the rejection of claim 1 over Manougian and Rago, and Appellant does not identify how Flax and Hunt fail to teach the dependent claim limitations, we affirm the rejection of these claims as well.

C. 35 U.S.C. § 103(a) over Manougian, Rago, and Beasley

The Examiner rejected claims 22 and 23 under 35 U.S.C. § 103(a) as obvious over Manougian, Rago, and Beasley (Ans. 6-7).

Claims 22 and 23 depend from claim 1. As we have affirmed the rejection of claim 1 over Manougian and Rago, and Appellant does not identify how Beasley fails to teach the dependent claim limitations, we affirm the rejection of these claims as well.

D. 35 U.S.C. § 103(a) over Seidler and Rago

The Examiner rejected claims 1, 2, 7-10, 13, 17, 18, 21, 26-28, 30-36, 38, and 39 under 35 U.S.C. § 103(a) as obvious over Seidler and Rago (Ans. 7-9).

The Examiner finds that “Seidler discloses a box **30** with at least one base portion **34**, a lid **32**, and a hinge **16/18** comprising first element **18** and second element **16** and capable of retaining the lid in an upstanding position” (Ans. 5). The Examiner finds that “Rago discloses a hinge **22** . . . with a first element **62** comprising loop materials and a second element **72** comprising hook materials” (Ans. 7). The Examiner concludes that “because these two hinge means were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the hook- and-loop of Rago for the magnets of Seidler” (Ans. 7).

Appellant contends that it is “unreasonable to assert that Rago constitutes analogous art with respect to the subject matter of the pending claims, or that one of ordinary skill in the art would have been motivated to modify Seidler with the teaching of Rago” (App. Br. 10). Appellant also contends that the artisan “would not have been motivated to replace the virtual hinge taught by Seidler with the alleged Velcro hinge of Rago . . . because Seidler specifically states that the virtual hinge axis neither increases the physical dimensions of the hinge nor physically occupies space intermediate the plates” (App. Br. 11).

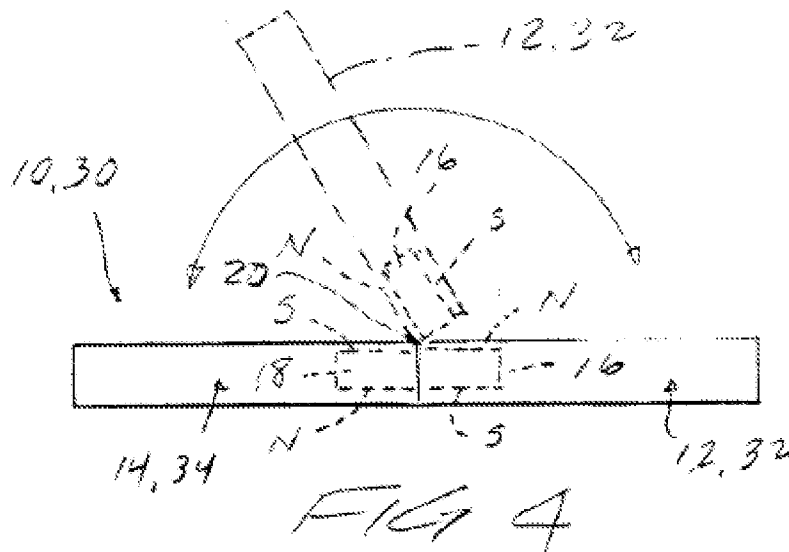
In view of these conflicting positions, we frame the obviousness issues before us as follows:

Did the Examiner err in finding that it would have been obvious to substitute the hook and loop hinge of Rago for the magnetic cosmetic case hinge of Seidler?

Findings of Fact

12. Seidler teaches a “cosmetic case, gnereally designated **30**. One of the plates . . . defines a cover **32** of the case **30** and the other of the plates . . . defines a base **34** of the case **30**, the base **34** and cover **32** being movable between closed and open orientations” (Seidler 4 ¶ 0049).

13. Figure 4 of Seidler is reproduced below:



“**FIG. 4** is a side elevational view . . . with one plate being shown in an intermediate orientation in phantom line” (Seidler 2 ¶ 0028).

14. Seidler teaches that the “first and second plates **12, 14** are movable about the hinge axis **20**” (Seidler 3 ¶ 0040).

15. Seidler teaches that the plate “is stable not only in the closed orientation and open orientations relative to the base **34**, but additionally in the single intermediate orientation of **FIG. 13** wherein it is generally transverse (at a right angle) to the base **34**” (Seidler 4-5 ¶ 0055).

16. Seidler teaches that “a third plate **50**, as illustrated essentially identical to the base **34** . . . may be added to the bottom of the compact **30**, thereby increasing its thickness by $\frac{1}{2}$ ” (Seidler 4 ¶ 0052).

Principles of Law

“A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem.” *In re Clay*, 966 F.2d 656, 659 (Fed.Cir.1992).

“All the disclosures in a reference must be evaluated, including nonpreferred embodiments, and a reference is not limited to the disclosure of specific working examples.” *In re Mills*, 470 F.2d 649, 651, CCPA 1972) (citations omitted). “We will not read into a reference a teaching away from a process where no such language exists.” *DyStar Textilfarben GmbH & Co. Deutschland KG v. C.H. Patrick Co.*, 464 F.3d 1356, 1364 (Fed. Cir. 2006).

Analysis

Claim 1

Seidler teaches a box comprising a base portion, a lid and a hinge connecting the lid to the base portion (FF 12-13). Seidler teaches that the lid and base are moveable about the hinge, which may be placed upright (FF 14-15). Seidler does not teach a hinge composed of hook and loop elements (*see* Ans. 7).

As discussed above, Rago teaches a hinge composed of hook and loop elements (FF 6-9). Rago teaches that “the interaction of the loop and hook elements on the Velcro sheets **68** and **72** . . . permits the two sections to be

pivotaly movable between an open and folded condition” (Rago, col. 3, ll. 52-55; FF 10).

The ordinary artisan, as a person of ordinary creativity per the court in *KSR*, would have reasonably combined the hinge of Rago with the box of Seidler since combination of the hinge of Rago with the box of Manougian is merely a “predictable use of prior art elements according to their established functions.” *KSR*, 550 U.S. 398, ___, 127 S. Ct. at 1740.

We do not find persuasive Appellant’s contention that “[i]t is therefore unreasonable to assert that Rago constitutes analogous art . . . or that one of ordinary skill in the art would have been motivated to modify Seidler with the teaching of Rago” (App. Br. 10). As we pointed out above, Appellant’s claim 1 is drawn to a “box” and not to a “cosmetic case” or any other specific item (*see* Claim 1). Applying the reasonable interpretation of claim 1 as a “box”, in our opinion, the hinge on the game board of Rago is reasonably analogous to the hinge of a “box” as taught by Seidler. Just as in *Icon*, “an inventor considering a hinge and latch mechanism for portable computers would naturally look to references employing other ‘ housings, hinges, latches, springs, etc’”, so too would the inventor in the “box” art look to references such as Rago which employ different types of hinges. *See In re ICON Health and Fitness, Inc.*, 496 F.3d 1374, 1380 (Fed. Cir. 2007).

We are also not persuaded by Appellant’s argument that “Rago is not an ‘equivalent’ hinge to the virtual hinge of Seidler, and modifying Seidler to accommodate the Rago hinge would render Seidler unsuitable for its intended purpose” (App. Br. 11). While we agree with Appellant that Seidler prefers the magnetic hinges, Seidler recognizes that “conventional

physical hinges typically perform well in a variety of different environments” even if “they have not proven to be entirely satisfactory” (Seidler 1 ¶ 0003). Replacement of the magnetic hinges of Seidler with hoop and loop hinges of Rago is a predictable variation. *See KSR*, 550 U.S. 398, ___, 127 S.Ct. at 1740. (“If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability.”) Further, as noted above, Seidler is not limited to the preferred embodiment of magnetic hinges, but encompasses physical hinges as well. “All the disclosures in a reference must be evaluated, including nonpreferred embodiments, and a reference is not limited to the disclosure of specific working examples.” *In re Mills*, 470 F.2d 649, 651 (CCPA 1972).

Claim 38

Appellant contends that “Rago does not disclose an element comprising loops or hooks extending on a lateral face. Seidler teaches a virtual hinge axis 20 about which the magnets 18, 16 rotate from a face-to-face orientation to back-to-back orientation” (App. Br. 12).

The Examiner finds that “Seidler discloses four hinge parts **16/18** on two different ends of a side of the rectangular base and lid (see e.g. Figure 1). Replacement of the magnets **16/18** with corresponding hook-and-loop elements would also have four parts on two ends of a side” (Ans. 14).

We agree with the Examiner that the simplest substitution of the hook and loop hinges of Rago into the cosmetic box of Seidler would be to replace each of Seidler’s two hinges with the equivalent hook and loop hinge of Rago (*see* Ans. 14). This substitution would result in the structure of claim 38, with two hinges lateral to one another (*see* Claim 38). “A person

of ordinary skill is also a person of ordinary creativity, not an automaton.”
KSR, 550 U.S. 398, ___, 127 S.Ct. at 1742.

Claim 39

Appellant contends that “Rago does not suggest any third section would be removably connected to the bottom face of either of the two sections of the disclosed game board” (App. Br. 12). Appellant contends that “[e]ven when stacked in multiple plates, the magnets depicted in Seidler are exposed toward a rear face of each of 12, 14, and 50” (App. Br. 12).

The Examiner finds that “Seidler clearly discloses this feature (see e.g. Figures 9-13)” (Ans. 14).

We agree with the Examiner that Seidler teaches a “third section” that is removably connected to the bottom face, when Seidler teaches that “a third plate **50**, as illustrated essentially identical to the base **34** . . . may be added to the bottom of the compact **30**, thereby increasing its thickness by $\frac{1}{2}$ ” (Seidler 4 ¶ 0052; FF 16).

With regard to the third and fourth elements, we apply the same analysis as discussed above in the analysis of these elements in claim 38.

Conclusions of Law

The Examiner did not err in finding that it would have been obvious to substitute the hook and loop hinge of Rago for the magnetic cosmetic case hinge of Seidler.

E. 35 U.S.C. § 103(a) over Seidler, Rago, and Vicari

The Examiner rejected claim 16 under 35 U.S.C. § 103(a) as obvious over Seidler, Rago, and Vicari (Ans. 9).

Claim 16 depends from claims 1. As we have affirmed the rejection of claim 1 over Seidler and Rago, and Appellant does not identify how Vicari fails to teach the dependent claim limitations, we affirm the rejection of claim 16 as well.

SUMMARY

In summary, we affirm the rejection of claim 1 under 35 U.S.C. § 103(a) over Manougian and Rago. Pursuant to 37 C.F.R. § 41.37(c)(1)(vii)(2006), we also affirm the rejection of claims 2, 3, 11, 12, 14, 15, 17-21, 24, 26-31, and 34-36 as these claims were not argued separately.

We affirm the rejection of claims 4-6, 25, and 37 under 35 U.S.C. § 103(a) as obvious over Manougian, Rago, Flax, and Hunt. We affirm the rejection of claims 22 and 23 under 35 U.S.C. § 103(a) as obvious over Manougian, Rago, and Beasley.

We also affirm the rejections of claims 1, 38, and 39 under 35 U.S.C. § 103(a) as obvious over Seidler and Rago. Pursuant to 37 C.F.R. § 41.37(c)(1)(vii)(2006), we also affirm the rejection of claims 2, 7-10, 13, 17, 18, 21, 26-28, and 30-36 as these claims were not argued separately. We

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affirm the rejection of claim 16 under 35 U.S.C. § 103(a) as obvious over Seidler, Rago, and Vicari.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv)(2006).

AFFIRMED

Ssc:

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